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PART II—EMERGENCY CROP LOSS ASSISTANCE

[As Amended Through Public Law 106–170, Dec. 17, 1999]

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December 17, 1999

11. NONINSURED CROP ASSISTANCE PROGRAM (section 196 of P.L. 104-127)

[This section was enacted as part of the Federal Agriculture Improvement and Reform Act of 1996. See Public Law 104-127; 110 Stat. 947]

SEC. 196. [7 U.S.C. 7333] ADMINISTRATION AND OPERATION OF NON-INSURED CROP ASSISTANCE PROGRAM.

(a) OPERATION AND ADMINISTRATION OF PROGRAM.—

(1) **IN GENERAL.**—In the case of an eligible crop described in paragraph (2), the Secretary of Agriculture shall operate a noninsured crop disaster assistance program to provide coverage equivalent to the catastrophic risk protection otherwise available under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)). The Secretary shall carry out this section through the Consolidated Farm Service Agency (in this section referred to as the “Agency”).

(2) ELIGIBLE CROPS.—

(A) **IN GENERAL.**—In this section, the term “eligible crop” means each commercial crop or other agricultural commodity (except livestock)—

(i) for which catastrophic risk protection under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) is not available; and

(ii) that is produced for food or fiber.

(B) **CROPS SPECIFICALLY INCLUDED.**—The term “eligible crop” shall include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, seed crops, aquaculture (including ornamental fish), and industrial crops.

(3) **CAUSE OF LOSS.**—To qualify for assistance under this section, the losses of the noninsured commodity shall be due to drought, flood, or other natural disaster, as determined by the Secretary.

(b) APPLICATION FOR NONINSURED CROP DISASTER ASSISTANCE.—

(1) **TIMELY APPLICATION.**—To be eligible for assistance under this section, a producer shall submit an application for noninsured crop disaster assistance at a local office of the Department. The application shall be in such form, contain such information, and be submitted at such time as the Secretary may require.

(2) **RECORDS.**—A producer shall provide records, as required by the Secretary, of crop acreage, acreage yields, and production.

(3) **ACREAGE REPORTS.**—A producer shall provide reports on acreage planted or prevented from being planted, as re-

quired by the Secretary, by the designated acreage reporting date for the crop and location as established by the Secretary.

(c) LOSS REQUIREMENTS.—

(1) REQUIRED AREA LOSS.—A producer of an eligible crop shall not receive noninsured crop disaster assistance unless the average yield for that crop, or an equivalent measure in the event yield data are not available, in an area falls below 65 percent of the expected area yield, as established by the Secretary.

(2) PREVENTED PLANTING.—Subject to paragraph (1), the Secretary shall make a prevented planting noninsured crop disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.

(3) REDUCED YIELDS.—Subject to paragraph (1), the Secretary shall make a reduced yield noninsured crop disaster assistance payment to a producer if the total quantity of the eligible crop that the producer is able to harvest on any farm is, because of drought, flood, or other natural disaster as determined by the Secretary, less than 50 percent of the expected individual yield for the crop, as determined by the Secretary, factored for the interest of the producer for the crop.

(d) PAYMENT.—The Secretary shall make available to a producer eligible for noninsured assistance under this section a payment computed by multiplying—

(1) the quantity that is less than 50 percent of the established yield for the crop; by

(2)(A) in the case of each of the 1996 through 1998 crop years, 60 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); or

(B) in the case of each of the 1999 and subsequent crop years, 55 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); by

(3) a payment rate for the type of crop (as determined by the Secretary) that—

(A) in the case of a crop that is produced with a significant and variable harvesting expense, reflects the decreasing cost incurred in the production cycle for the crop that is—

(i) harvested;

(ii) planted but not harvested; and

(iii) prevented from being planted because of drought, flood, or other natural disaster (as determined by the Secretary); and

(B) in the case of a crop that is not produced with a significant and variable harvesting expense, as determined by the Secretary.

(e) YIELD DETERMINATIONS.—

(1) ESTABLISHMENT.—The Secretary shall establish farm yields for purposes of providing noninsured crop disaster assistance under this section.

(2) ACTUAL PRODUCTION HISTORY.—The Secretary shall determine yield coverage using the actual production history of

the producer over a period of not less than the 4 previous consecutive crop years and not more than 10 consecutive crop years. Subject to paragraph (3), the yield for the year in which noninsured crop disaster assistance is sought shall be equal to the average of the actual production history of the producer during the period considered.

(3) ASSIGNMENT OF YIELD.—If a producer does not submit adequate documentation of production history to determine a crop yield under paragraph (2), the Secretary shall assign to the producer a yield equal to not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Secretary for continuous years), as specified in regulations issued by the Secretary based on production history requirements.

(4) PROHIBITION ON ASSIGNED YIELDS IN CERTAIN COUNTRIES.—

(A) IN GENERAL.—

(i) DOCUMENTATION.—If sufficient data are available to demonstrate that the acreage of a crop in a county for the crop year has increased by more than 100 percent over any year in the preceding 7 crop years or, if data are not available, if the acreage of the crop in the county has increased significantly from the previous crop years, a producer must provide such detailed documentation of production costs, acres planted, and yield for the crop year for which benefits are being claimed as is required by the Secretary. If the Secretary determines that the documentation provided is not sufficient, the Secretary may require documenting proof that the crop, had the crop been harvested, could have been marketed at a reasonable price.

(ii) PROHIBITION.—Except as provided in subparagraph (B), a producer who produces a crop on a farm located in a county described in clause (i) may not obtain an assigned yield.

(B) EXCEPTION.—A crop or a producer shall not be subject to this subsection if—

(i) the planted acreage of the producer for the crop has been inspected by a third party acceptable to the Secretary; or

(ii)(I) the County Executive Director and the State Executive Director recommend an exemption from the requirement to the Administrator of the Agency; and

(II) the Administrator approves the recommendation.

(5) LIMITATION ON RECEIPT OF SUBSEQUENT ASSIGNED YIELD.—A producer who receives an assigned yield for the current year of a natural disaster because required production records were not submitted to the local office of the Department shall not be eligible for an assigned yield for the year of the next natural disaster unless the required production records of the previous 1 or more years (as applicable) are provided to the local office.

(6) YIELD VARIATIONS DUE TO DIFFERENT FARMING PRACTICES.—The Secretary shall ensure that noninsured crop disaster assistance accurately reflects significant yield variations due to different farming practices, such as between irrigated and nonirrigated acreage.

(f) CONTRACT PAYMENTS.—A producer who has received a guaranteed payment for production, as opposed to delivery, of a crop pursuant to a contract shall have the production of the producer adjusted upward by the amount of the production equal to the amount of the contract payment received.

(g) USE OF COMMODITY CREDIT CORPORATION.—The Secretary may use the funds of the Commodity Credit Corporation to carry out this section.

(h) EXCLUSIONS.—Noninsured crop disaster assistance under this section shall not cover losses due to—

- (1) the neglect or malfeasance of the producer;
- (2) the failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed; or
- (3) the failure of the producer to follow good farming practices, as determined by the Secretary.

(i) PAYMENT AND INCOME LIMITATIONS.—

(1) DEFINITIONS.—In this subsection:

(A) PERSON.—The term “person” has the meaning provided the term in regulations issued by the Secretary. The regulations shall conform, to the extent practicable, to the regulations defining the term “person” issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308).

(B) QUALIFYING GROSS REVENUES.—The term “qualifying gross revenues” means—

- (i) if a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue from the farming, ranching, and forestry operations of the person; and
- (ii) if less than a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue of the person from all sources.

(2) PAYMENT LIMITATION.—The total amount of payments that a person shall be entitled to receive annually under this section may not exceed \$100,000.

(3) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a producer who is eligible to receive benefits under this section is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this section or under the other program, but not both.

(B) EXCEPTION.—Subparagraph (A) shall not apply to emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

(4) INCOME LIMITATION.—A person who has qualifying gross revenues in excess of the amount specified in section

2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) (as in effect on November 28, 1990) during the taxable year (as determined by the Secretary) shall not be eligible to receive any noninsured assistance payment under this section.

(5) REGULATIONS.—The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and equitable application of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), the general payment limitation regulations of the Secretary, and the limitations established under this subsection.

(j) CONFORMING REPEAL.—Section 519 of the Federal Crop Insurance Act (7 U.S.C. 1519) is repealed.

12. FISCAL YEAR 2000 EMERGENCY AND DISASTER ASSISTANCE FOR PRODUCERS

[Title VIII of the Agriculture, Rural Development, Food and Drug Administration,
and Related Agencies Appropriations Act, 2000 (Public Law 106-78)]

TITLE VIII—EMERGENCY AND DISASTER ASSISTANCE FOR PRODUCERS

SUBTITLE A—CROP AND MARKET LOSS ASSISTANCE

SEC. 801. [7 U.S.C. 1421 note] CROP LOSS ASSISTANCE.¹

(a) **IN GENERAL.**—The Secretary of Agriculture (referred to in this title as the “Secretary”) shall use \$1,200,000,000 of funds of the Commodity Credit Corporation to make emergency financial assistance available to producers on a farm that have incurred losses in a 1999 crop due to a disaster, as determined by the Secretary.

(b) **ADMINISTRATION.**—The Secretary shall make assistance available under this section in the same manner as provided under section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (7 U.S.C. 1421 note; Public Law 105-277), including using the same loss thresholds as were used in administering that section.

(c) **QUALIFYING LOSSES.**—Assistance under this section may be made for losses associated with crops that are, as determined by the Secretary—

- (1) quantity losses;
- (2) quality losses; or
- (3) severe economic losses due to damaging weather or related condition.

(d) **CROPS COVERED.**—Assistance under this section shall be applicable to losses for all crops (including losses of trees from which a crop is harvested, livestock, and fisheries), as determined by the Secretary, due to disasters.

(e) **CROP INSURANCE.**—In carrying out this section, the Secretary shall not discriminate against or penalize producers on a farm that have purchased crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(f) **RICE LOAN DEFICIENCY PAYMENTS.**—In the case of producers of the 1999 crop of rice that harvested such rice on or before

¹The paragraph under the heading “CROP LOSS ASSISTANCE” under the heading “Commodity Credit Corporation Fund” of H.R. 3425 of the 106th Congress, as introduced on November 17, 1999, and enacted into law by section 1000(5) of Public Law 106-113 (113 Stat. 1535) provided “an additional amount for crop loss assistance authorized by section 801 of Public Law 106-78, [in the amount of] \$186,000,000: *Provided*, That this assistance shall be under the same terms and conditions as in section 801 of Public Law 106-78.”

August 4, 1999, the Secretary may use funds made available under this section to—

(1) make loan deficiency payments to producers that received, or that were eligible to receive, such payments under section 135 of the Agricultural Market Transition Act (7 U.S.C. 7235) in a manner that results in the same total payment that would have been made if the payment had been requested by the producers on August 5, 1999; and

(2) recalculate any repayment made for a marketing assistance loan for the 1999 crop of rice on or before August 4, 1999, as if the repayment had been made on August 5, 1999.

(g) HONEY RECOURSE LOANS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in order to assist producers of honey to market their honey in an orderly manner during a period of disastrously low prices, the Secretary may use funds made available under this section to make available recourse loans to producers of the 1999 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary.

(2) LOAN RATE.—The loan rate of the loans shall be 85 percent of the average price of honey during the 5-crop year period preceding the 1999 crop year, excluding the crop year in which the average price of honey was the highest and the crop year in which the average price of honey was the lowest in the period.

(h) RECOURSE LOANS FOR MOHAIR.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, during fiscal year 2000, the Secretary may use funds made available under this section to make recourse loans available in accordance with section 137(c) of the Agricultural Market Transition Act (7 U.S.C. 7237(c)) to producers of mohair produced during or before that fiscal year.

(2) INTEREST.—Section 137(c)(4) of that Act shall not apply to a loan made under paragraph (1).

SEC. 802. [7 U.S.C. 1421 note] MARKET LOSS ASSISTANCE.¹

(a) ASSISTANCE AUTHORIZED.—The Secretary shall use not more than \$5,544,453,000 of funds of the Commodity Credit Corporation to provide assistance to owners and producers on a farm that are eligible for final payments for fiscal year 1999 under a pro-

¹ Sections 103 and 104 of H.R. 3425 of the 106th Congress, as introduced on November 17, 1999, and enacted into law by section 1000(5) of Public Law 106-113 (113 Stat. 1535) provide as follows:

SEC. 103. Of the funds made available under section 802 of Public Law 106-78 not otherwise needed to fully implement that section, the Secretary of Agriculture may use up to \$4,700,000 to carry out title IX of Public Law 106-78 [relating to livestock mandatory reporting].

SEC. 104. (a) Of the funds made available under section 802 of Public Law 106-78 (excluding any funds authorized by this Act to carry out title IX of Public Law 106-78) and under section 1111 of Public Law 105-277 not otherwise needed to fully implement those sections, the Secretary of Agriculture may provide assistance to producers or first-handlers for the 1999 crop of cottonseed.

(b) Of the funds made available under section 802 of Public Law 106-78 and section 1111 of Public Law 105-277 not otherwise needed to fully implement those sections (excluding any funds authorized by this Act to carry out title IX and to provide assistance to producers or first-handlers for the 1999 crop of cottonseed under subsection (a) of this section), the Secretary may provide funds to carry out subsection (c) of this section [which consists of an amendment to the Agricultural Market Transition Act relating to extra long staple cotton].

duction flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

(b) AMOUNT.—The amount of assistance made available to owners and producers on a farm under this section shall be proportionate to the amount of the contract payment received by the owners and producers for fiscal year 1999 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

(c) PROTECTION OF TENANTS AND SHARECROPPERS; SHARING OF PAYMENTS.—Sections 111(c) and 114(g) of the Agricultural Market Transition Act (7 U.S.C. 7211(c), 7214(g)) shall apply to the payments made under subsection (a).

SEC. 803. [7 U.S.C. 1421 note] SPECIALTY CROPS.¹

(a) PEANUTS.—

(1) IN GENERAL.—The Secretary shall use such amounts as are necessary of funds of the Commodity Credit Corporation to provide payments to producers of quota peanuts or additional peanuts to partially compensate the producers for continuing low commodity prices, and increasing costs of production, for the 1999 crop year.

(2) AMOUNT.—The amount of a payment made to producers on a farm of quota peanuts or additional peanuts under paragraph (1) shall be equal to the product obtained by multiplying—

(A) the quantity of quota peanuts or additional peanuts produced or considered produced by the producers; and

(B) an amount equal to 5 percent of the loan rate established for quota peanuts or additional peanuts, respectively, under section 155 of the Agricultural Market Transition Act (7 U.S.C. 7271).

(b) CONDITION ON PAYMENT OF SALARIES AND EXPENSES.—None of the funds appropriated or otherwise made available by this Act or any other Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out or enforce section 156(f) of the Agricultural Market Transition Act (7 U.S.C. 7272(f)) through fiscal year 2001.

(c) TOBACCO.—

(1) IN GENERAL.—The Secretary shall use \$328,000,000 of funds of the Commodity Credit Corporation to make payments to States on behalf of persons described in paragraph (2) for the reduction in the quantity of quota allotted to certain farms under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) from the 1998 crop year to the 1999 crop year.

¹ The paragraph under the heading “SPECIALTY CROP ASSISTANCE” under the heading “Commodity Credit Corporation Fund” of H.R. 3425 of the 106th Congress, as introduced on November 17, 1999, and enacted into law by section 1000(5) of Public Law 106-113 (113 Stat. 1535) provided “an additional amount for specialty crop assistance authorized by section 803(c)(1) of Public Law 106-78, [in the amount of] \$2,800,000: *Provided*, That the definition of eligible persons in section 803(c)(2) of Public Law 106-78 shall include producers who have suffered quality or quantity losses due to natural disasters on crops harvested and placed in a warehouse and not sold.”

(2) ELIGIBLE PERSONS.—To be eligible to receive a payment under paragraphs (1) through (5), a person must own or operate, or produce tobacco on, a farm—

(A) for which the quantity of quota allotted to the farm under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) was reduced from the 1998 crop year to the 1999 crop year; and

(B) that was used for the production of tobacco during the 1998 or 1999 crop year.

(3) ALLOCATION TO STATES.—The Secretary shall allocate funds made available under paragraph (1) to States with eligible persons described in paragraph (2) in proportion to the relative quantity of quota allotted to farms in the States that was reduced from the 1998 crop year to the 1999 crop year.

(4) DISTRIBUTION BY STATES.—

(A) IN GENERAL.—In the case of a State described in paragraph (3) that is a party to the National Tobacco Grower Settlement Trust, the State shall distribute funds made available under paragraph (3) to eligible persons in the State in accordance with the formulas established pursuant to the Trust.

(B) OTHER STATES.—Subject to the approval of the Secretary, in the case of a State described in paragraph (3) that is not a party to the National Tobacco Grower Settlement Trust, the State shall distribute funds made available under paragraph (3) to eligible persons in the State in a manner determined by the State.

(5) ALTERNATIVE DISTRIBUTION.—In lieu of making payments under this subsection to States, the Secretary may distribute funds directly to eligible persons using the facilities of private disbursing agents, facilities of the Farm Service Agency, or other available facilities.

(6) FLUE-CURED TOBACCO.—[Omitted-Amendments]

SEC. 804. [7 U.S.C. 1421 note] OILSEEDS.

(a) IN GENERAL.—The Secretary shall use \$475,000,000 of funds of the Commodity Credit Corporation to make payments to producers of the 1999 crop of oilseeds that are eligible to obtain a marketing assistance loan under section 131 of the Agricultural Market Transition Act (7 U.S.C. 7231).

(b) COMPUTATION.—A payment to producers on a farm under this section for an oilseed shall be equal to the product obtained by multiplying—

(1) a payment rate determined by the Secretary;

(2) the acreage of the producers on the farm for the oilseed, as determined under subsection (c); and

(3) the yield of the producers on the farm for the oilseed, as determined under subsection (d).

(c) ACREAGE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the acreage of the producers on the farm for an oilseed under subsection (b)(2) shall be equal to the greater of—

(A) the number of acres planted to the oilseed by the producers on the farm during the 1997 crop year, as re-

ported by the producers on the farm to the Secretary (including any acreage reports that are filed late); or

(B) the number of acres planted to the oilseed by the producers on the farm during the 1998 crop year, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).

(2) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to an oilseed during the 1999 crop year but not the 1997 or 1998 crop year, the acreage of the producers for the oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 1999 crop year, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).

(d) YIELD.—

(1) SOYBEANS.—Except as provided in paragraph (3), in the case of soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greatest of—

(A) the average county yield per harvested acre for each of the 1994 through 1998 crop years, excluding the crop year with the highest yield per harvested acre and the crop year with the lowest yield per harvested acre;

(B) the actual yield of the producers on the farm for the 1997 crop year; or

(C) the actual yield of the producers on the farm for the 1998 crop year.

(2) OTHER OILSEEDS.—Except as provided in paragraph (3), in the case of oilseeds other than soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greatest of—

(A) the average national yield per harvested acre for each of the 1994 through 1998 crop years, excluding the crop year with the highest yield per harvested acre and the crop year with the lowest yield per harvested acre;

(B) the actual yield of the producers on the farm for the 1997 crop year; or

(C) the actual yield of the producers on the farm for the 1998 crop year.

(3) NEW PRODUCERS.—In the case of producers on a farm that planted acreage to an oilseed during the 1999 crop year but not the 1997 or 1998 crop year, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average county yield per harvested acre for each of the 1994 through 1998 crop years, excluding the crop year with the highest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 1999 crop.

(4) DATA SOURCE.—To the maximum extent available, the Secretary shall use data provided by the National Agricultural Statistics Service to carry out this subsection.

SEC. 805. [7 U.S.C. 1421 note] LIVESTOCK AND DAIRY.¹

The Secretary shall use \$325,000,000 of funds of the Commodity Credit Corporation to provide assistance directly to livestock and dairy producers, in a manner determined appropriate by the Secretary, to compensate the producers for economic losses incurred during 1999.

SEC. 806. [7 U.S.C. 1421 note] UPLAND COTTON.

[Omitted-Amendments]

SEC. 807. [7 U.S.C. 1421 note] MILK.

[Omitted-Amendments]

Subtitle B—Other Assistance

SEC. 811. AUTHORITY FOR ADVANCE PAYMENT IN FULL OF REMAINING PAYMENTS UNDER PRODUCTION FLEXIBILITY CONTRACTS.

[Omitted-Amendment]

SEC. 812. COMMODITY CERTIFICATES.

[Omitted-Amendment]

SEC. 813. [7 U.S.C. 1421 note] LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.

(a) **IN GENERAL.**—Notwithstanding section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(1)), the total amount of the payments specified in section 1001(3) of that Act that a person shall be entitled to receive under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) for one or more contract commodities and oilseeds produced during the 1999 crop year may not exceed \$150,000.

(b) **1999 MARKETINGS.**—In carrying out subsection (a), the Secretary shall allow a producer that has marketed a quantity of an eligible 1999 crop for which the producer has not received a loan deficiency payment or marketing loan gain under section 134 or 135 of the Agricultural Market Transition Act (7 U.S.C. 7234, 7235) to receive such payment or gain as of the date on which the quantity was marketed or redeemed, as determined by the Secretary.

SEC. 814. [7 U.S.C. 1421 note] ASSISTANCE FOR PURCHASE OF ADDITIONAL CROP INSURANCE COVERAGE.

The Secretary shall transfer \$400,000,000 of funds of the Commodity Credit Corporation to the Federal Crop Insurance Corporation to be used to assist agricultural producers in purchasing additional coverage for the 2000 crop year (and 2001 crop year for citrus fruit, avocados in California, and macadamia nuts) under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

¹The paragraph under the heading “LIVESTOCK ASSISTANCE” under the heading “Commodity Credit Corporation Fund” of H.R. 3425 of the 106th Congress, as introduced on November 17, 1999, and enacted into law by section 1000(5) of Public Law 106-113 (113 Stat. 1535) provided “an additional amount for livestock assistance authorized by section 805 of Public Law 106-78, [in the amount of] \$10,000,000: *Provided*, That the Secretary of Agriculture may use this additional amount to provide assistance to persons who raise livestock owned by other persons for income losses sustained with respect to livestock during 1999 if the Secretary finds that such losses are the result of natural disasters.”.

SEC. 815. [7 U.S.C. 1421 note] FORGIVENESS OF CERTAIN WATER AND WASTE DISPOSAL LOANS.

The Secretary shall forgive the principal indebtedness and accrued interest owed by the City of Stroud, Oklahoma, to the Rural Utilities Service on water and waste disposal loans numbered 9105 and 9107.

SEC. 816. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.

[Omitted-Amendments]

SEC. 817. [7 U.S.C. 1421 note] FISHERIES.

(a) NORTON SOUND FISHERIES FAILURE.—

(1) INCOME ELIGIBILITY.—

[Omitted-Amendment]

(2) EMERGENCY ASSISTANCE.—

[Omitted-Amendment]

(3) APPROPRIATION.—

(A) IN GENERAL.—In addition to amounts appropriated or otherwise made available by this Act, there is appropriated to the Department of Agriculture for fiscal year 2001, out of any money in the Treasury not otherwise appropriated, \$15,000,000, to remain available until expended, to provide emergency disaster assistance to persons or entities affected by the 1999 fisheries failure in the Norton Sound region of Alaska.

(B) TRANSFER.—To carry out this paragraph, the Secretary shall transfer to the Secretary of Commerce for obligation and expenditure—

(i) \$10,000,000 for fiscal year 2001 for grants under section 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149); and

(ii) \$5,000,000 for fiscal year 2001 for carrying out section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a).

(b) COMMERCIAL FISHERIES FAILURE.—

(1) IN GENERAL.—In addition to amounts appropriated or otherwise made available by this Act, there is appropriated to the Department of Agriculture for fiscal year 2001, out of any money in the Treasury not otherwise appropriated, \$15,000,000, to remain available until expended, which shall be transferred to the Department of Commerce to provide emergency disaster assistance for the commercial fishery failure under section 308(b)(1) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)(1)) with respect to Northeast multispecies fisheries.

(2) USE.—Amounts made available under this subsection shall be used to support cooperative research and management activities administered by the National Marine Fisheries Services and based on recommendations by the New England Fishery Management Council.

SEC. 818. [7 U.S.C. 1421 note] SENSE OF THE CONGRESS REGARDING FAST-TRACK AUTHORITY AND FUTURE WORLD TRADE ORGANIZATION NEGOTIATIONS.

It is the sense of the Congress that—

(1) the President should make a formal request for appropriate fast-track authority for future United States trade negotiations;

(2) regarding future World Trade Organization negotiations—

(A) rules for trade in agricultural commodities should be strengthened and trade-distorting import and export practices should be eliminated or substantially reduced;

(B) the rules of the World Trade Organization should be strengthened regarding the practices or policies of a foreign government that unreasonably—

(i) restrict market access for products of new technologies, including products of biotechnology; or

(ii) delay or preclude implementation of a report of a dispute panel of the World Trade Organization; and

(C) negotiations within the World Trade Organization should be structured so as to provide the maximum leverage possible to ensure the successful conclusion of negotiations on agricultural products;

(3) the President should—

(A) conduct a comprehensive evaluation of all existing export and food aid programs, including—

(i) the export credit guarantee program established under section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622);

(ii) the market access program established under section 203 of that Act (7 U.S.C. 5623);

(iii) the export enhancement program established under section 301 of that Act (7 U.S.C. 5651);

(iv) the foreign market development cooperator program established under section 702 of that Act (7 U.S.C. 5722); and

(v) programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.); and

(B) transmit to Congress—

(i) the results of the evaluation under subparagraph (A); and

(ii) recommendations on maximizing the effectiveness of the programs described in subparagraph (A); and

(4) the Secretary should carry out a purchase and donation or concessional sales initiative in each of fiscal years 1999 and 2000 to promote the export of additional quantities of soybeans, beef, pork, poultry, and products of such commodities (including soybean meal, soybean oil, textured vegetable protein, and soy protein concentrates and isolates) using programs established under—

(A) the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.);

(B) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) titles I and II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.); and

(D) the Food for Progress Act of 1985 (7 U.S.C. 1736o).

Subtitle C—Administration

SEC. 821. [7 U.S.C. 1421 note] COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

SEC. 822. [7 U.S.C. 1421 note] ADMINISTRATIVE COSTS.

(a) RESERVATION OF FUNDS.—Subject to subsections (b) and (c), the Secretary may reserve up to \$56,000,000 of the amounts made available under subtitle A to cover administrative costs incurred by the Farm Service Agency directly related to carrying out that subtitle.

(b) PROPORTIONAL RESERVATION.—The amount reserved by the Secretary from the amounts made available under each section of subtitle A (other than section 802) shall bear the same proportion to the total amount reserved under subsection (a) as the administrative costs incurred by the Farm Service Agency to carry out that section (other than section 802) bear to the total administrative costs incurred by the Farm Service Agency to carry out that subtitle (other than section 802).

(c) EXCEPTION FOR MARKET LOSS ASSISTANCE.—The Secretary may not reserve any portion of the amount made available under section 802 to pay administrative costs.

SEC. 823. [7 U.S.C. 1421 note] EMERGENCY REQUIREMENT.

The entire amount necessary to carry out this title and the amendments made by this title shall be available only to the extent that an official budget request for the entire amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

SEC. 824. [7 U.S.C. 1421 note] REGULATIONS.

(a) PROMULGATION.—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement subtitle A and the amendments made by subtitle A. The promulgation of the regulations and administration of subtitle A shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 825. [7 U.S.C. 1421 note] LIVESTOCK AND DAIRY ASSISTANCE.

(a) LIVESTOCK ASSISTANCE.—Of the funds provided in sections 801 and 805, no less than \$200,000,000 shall be in the form of assistance to livestock producers for losses due to drought or other natural disasters.

(b) DAIRY ASSISTANCE.—Of the funds provided in section 805, no less than \$125,000,000 shall be in the form of assistance to dairy producers.

(c) FORM OF ASSISTANCE.—Assistance for livestock losses shall be in the form of grants and or other in-kind assistance, but shall not include loans.

13. FISCAL YEAR 1999 EMERGENCY AND MARKET LOSS ASSISTANCE

[Title XI of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105-277)]

TITLE XI—EMERGENCY AND MARKET LOSS ASSISTANCE

Subtitle A—Emergency Assistance for Crop and Livestock Feed Losses Due to Disasters

SEC. 1101. [7 U.S.C. 1421 note] GENERAL PROVISIONS.

(a) FAIR AND EQUITABLE DISTRIBUTION.—Assistance made available under this subtitle shall be distributed in a fair and equitable manner to producers who have incurred crop and livestock feed losses in all affected geographic regions of the United States.

(b) PROGRAM ADMINISTRATION.—In carrying out this subtitle, the Secretary of Agriculture (referred to in this title as the “Secretary”) may determine—

(1) 1 or more loss thresholds producers on a farm must incur with respect to a crop to be eligible for assistance;

(2) the payment rate for crop and livestock feed losses incurred; and

(3) eligibility and payment limitation criteria (as defined by the Secretary) for persons to receive assistance under this subtitle, which, in the case of assistance received under any section of this subtitle, shall be in addition to—

(A) assistance made available under any other section of this subtitle and subtitle B;

(B) payments or loans received by a person under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.);

(C) payments received by a person for the 1998 crop under the noninsured crop assistance program established under section 196 of that Act (7 U.S.C. 7333);

(D) crop insurance indemnities provided for the 1998 crop under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); and

(E) emergency loans made available for the 1998 crop under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

SEC. 1102. [7 U.S.C. 1421 note] CROP LOSS ASSISTANCE.¹

(a) **IN GENERAL.**—The Secretary shall administer a program under which emergency financial assistance is made available to producers on a farm who have incurred losses associated with crops due to disasters (as determined by the Secretary).

(b) **LOSSES INCURRED FOR 1998 CROP.**—Subject to section 1132, the Secretary shall use not more than \$1,500,000,000 to make available assistance to producers on a farm who have incurred losses in the 1998 crop due to disasters.

(c) **MULTIYEAR LOSSES.**—Subject to section 1132, the Secretary shall use not more than \$875,000,000 to make available assistance to producers on a farm who have incurred multiyear losses (as defined by the Secretary) in the 1998 and preceding crops of a commodity due to disasters (including, but not limited to, diseases such as scab).

(d) **RELATIONSHIP BETWEEN ASSISTANCE.**—The Secretary shall make assistance available to producers on a farm under either subsection (b) or (c).

(e) **QUALIFYING LOSSES.**—Assistance under this section may be made for losses associated with crops that are due to, as determined by the Secretary—

(1) quantity losses;

(2) quality (including, but not limited to, aflatoxin) losses;

or

(3) severe economic losses due to damaging weather or related condition.

(f) **CROPS COVERED.**—Assistance under this section shall be applicable to losses for all crops (including losses of trees from which

¹Section 101 of the 1999 Emergency Supplemental Appropriations Act (Public Law 106-31; 113 Stat. 61) provides as follows:

SEC. 101. (a) **CROP LOSS ASSISTANCE FOR CERTAIN MULTIYEAR LOSSES.**—From funds remaining in a reserve held under subsection (c) of section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (7 U.S.C. 1421 note; Public Law 105-277; 112 Stat. 2681-43), for errors, omissions, and appeals, the Secretary of Agriculture may use not more than 15 percent of the reserve funds to provide assistance to a producer described in subsection (b) who incurred losses to a commodity due to disasters in two crop years during the five-crop year period beginning with the 1994 crop year.

(b) **ELIGIBILITY CRITERIA.**—A producer on a farm is eligible for assistance under subsection (a) only if—

(1) the producer received a federally insured indemnity payment for crop losses in two crop years of such five-crop year period;

(2) the producer acquired federally insured crop insurance in one additional crop year during such period, but did not receive a federally insured indemnity payment;

(3) the producer received a non-federally insured indemnity payment for crop losses in the crop year referred to in paragraph (2); and

(4) the producer does not receive a payment under subsection (b) or (c) of such section 1102.

(c) **CROP YEARS COVERED; PAYMENT RATE.**—Any payment to a producer under subsection (a) may be paid only for losses incurred during the crop years described in paragraph (1) of subsection (b). The payment rate may not exceed the payment rate used under subsection (c) of such section 1102.

(d) **EFFECT ON EXISTING AUTHORITY.**—Nothing in this section authorizes the Secretary to delay the provision of crop loss assistance under such section 1102, and the Secretary shall complete the payment of multiyear assistance under subsection (c) of such section 1102 before making any payment under the authority of this section.

(e) **DESIGNATION AS EMERGENCY REQUIREMENT.**—Such sums as are necessary to carry out the amendments made by subsection (a): *Provided*, That such amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement under section 251(b)(2)(A) of such Act.

a crop is harvested), as determined by the Secretary, due to disasters.

(g) CROP INSURANCE.—

(1) ADMINISTRATION.—In carrying out this section, the Secretary shall not discriminate against or penalize producers on a farm who have purchased crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(2) ENCOURAGING FUTURE CROP INSURANCE PARTICIPATION.—Subject to section 1132, the Secretary, acting through the Federal Crop Insurance Corporation, may use the funds made available under subsections (b) and (c), and only those funds, to provide premium refunds or other assistance to purchasers of crop insurance for their 1998 insured crops, or their preceding (including 1998) insured crops.

(3) PRODUCERS WHO HAVE NOT PURCHASED CROP INSURANCE FOR 1998 CROP.—As a condition of receiving assistance under this section, producers on a farm who have not purchased crop insurance for the 1998 crop under that Act shall agree by contract to purchase crop insurance for the 1999 and 2000 crops produced by the producers.

(4) LIQUIDATED DAMAGES.—

(A) IN GENERAL.—The contract under paragraph (3) shall provide for liquidated damages to be paid by the producers due to the failure of the producers to purchase crop insurance as provided in paragraph (3).

(B) NOTICE OF DAMAGES.—The amount of the liquidated damages shall be established by the Secretary and specified in the contract agreed to by the producers.

(5) FUNDING FOR CROP INSURANCE PURCHASE REQUIREMENT.—Subject to section 1132, such sums as may be necessary, to remain available until expended, shall be available to the Federal Crop Insurance Corporation to cover costs incurred by the Corporation as a result of the crop insurance purchase requirement of paragraph (3). Funds made available under subsections (b) and (c) may not be used to cover such costs.

SEC. 1103. [7 U.S.C. 1421 note] EMERGENCY LIVESTOCK FEED ASSISTANCE.¹

Subject to section 1132, the Secretary shall use not more than \$200,000,000 to make available livestock feed assistance to livestock producers affected by disasters during calendar year 1998.

¹Section 104 of the 1999 Emergency Supplemental Appropriations Act (Public Law 106-31; 113 Stat. 62) provides as follows:

SEC. 104. For an additional amount for the Livestock Assistance Program under Public Law 105-277, \$70,000,000: *Provided*, That for the purposes of section 1103 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105-277), notwithstanding any other provision of law or regulation, the definition of "livestock" shall include "reindeer": *Provided further*, That the entire amount shall be available only to the extent an official budget request for \$70,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

Subtitle B—Market Loss Assistance

SEC. 1111. [7 U.S.C. 1421 note] MARKET LOSS ASSISTANCE.

(a) IN GENERAL.—Subject to section 1132 and except as provided in subsection (d), the Secretary shall use not more than \$3,057,000,000 for assistance to owners and producers on a farm who are eligible for final payments for fiscal year 1998 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) to partially compensate the owners and producers for the loss of markets for the 1998 crop of a commodity.

(b) AMOUNT.—Except as provided in subsection (d), the amount of assistance made available to owners and producers on a farm under this section shall be proportional to the amount of the contract payment received by the owners and producers for fiscal year 1998 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

(c) TIME FOR PAYMENT.—The assistance made available under this section for an eligible owner or producer shall be made as soon as practicable after the date of enactment of this Act.

(d) Of the total amount provided under subsection (a), \$200,000,000 shall be available to provide assistance to dairy producers in a manner determined by the Secretary: *Provided*, That no payments made under this section shall affect any decision with respect to rulemaking activities described under section 143 of Public Law 104–127.

Subtitle C—Other Assistance

SEC. 1121. [7 U.S.C. 1421 note] INDEMNITY PAYMENTS FOR COTTON PRODUCERS.

(a) FEDERAL CONTRIBUTION.—Subject to subsection (b), the Secretary of Agriculture shall pay \$5,000,000 to the State of Georgia to help fund an indemnity fund, to be established and managed by that State, to compensate cotton producers in that State for losses incurred in 1998 or 1999 from the loss of properly stored, harvested cotton as the result of the bankruptcy of a warehouseman or other party in possession of warehouse receipts evidencing title to the commodity, an improper conversion or transfer of the cotton, or such other potential hazards as determined appropriate by the State.

(b) CONDITIONS ON PAYMENT TO STATE.—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State also contributes \$5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2000, to provide compensation to cotton producers as provided in such subsection. If the State of Georgia fails to make its contribution of \$5,000,000 to the indemnity fund by July 1, 1999, the funds that would otherwise be paid to the State shall be available to the Secretary for the purpose of providing partial compensation to cotton producers as provided in such subsection.

(c) REPORTING REQUIREMENTS.—Upon the establishment of the indemnity fund, and not later than October 1, 1999, the State of Georgia shall submit a report to the Secretary of Agriculture and

the Congress describing the State's efforts to use the indemnity fund to provide compensation to injured cotton producers.

SEC. 1122. [7 U.S.C. 1421 note] HONEY RECOURSE LOANS.

(a) IN GENERAL.—Notwithstanding any other provision of law, in order to assist producers of honey to market their honey in an orderly manner during a period of disastrously low prices, the Secretary shall make available recourse loans to producers of the 1998 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary.

(b) LOAN RATE.—The loan rate of the loans shall be 85 percent of the average price of honey during the 5-crop year period preceding the 1998 crop year, excluding the crop year in which the average price of honey was the highest and the crop year in which the average price of honey was the lowest in the period.

(c) NO NET COST BASIS.—Repayment of a loan under this section shall include repayment for interest and administrative costs as necessary to operate the program established under this section on a no net cost basis: *Provided*, That no administrative costs shall be charged against this program which would have been incurred otherwise.

SEC. 1123. [7 U.S.C. 1421 note] NONINSURED CROP ASSISTANCE TO RAISIN PRODUCERS.

Notwithstanding any of the provisions of section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) that would exclude the following producers from benefits thereunder, the Secretary shall make Noninsured Crop Assistance Program payments in fiscal year 1999 to raisin producers who obtained catastrophic risk protection but because of adverse weather conditions were not able to comply with the policy deadlines for laying the raisins in trays.

SEC. 1124. [7 U.S.C. 1421 note] EMERGENCY ASSISTANCE.

¹In addition to amounts appropriated or otherwise made available by this Act, \$50,000,000 is appropriated to the Department of Agriculture, to remain available until expended, to provide emergency disaster assistance to persons or entities who have incurred losses from a failure under section 312(a) of Public Law 94-265 or a fisheries failure in the Norton Sound region of Alaska that has resulted in the closure of commercial and subsistence fisheries to persons that depend on fish as their primary source of food and income.

¹Section 763 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105-277), provides as follows:

SEC. 763. In implementing section 1124 of subtitle C of title XI of this Act, the Secretary of Agriculture shall:

(a) provide \$18,000,000 to the states for distribution of emergency aid to individuals with family incomes below the federal poverty level who have been adversely affected utilizing Federal Emergency Management Agency guidelines;

(b) transfer to the Secretary of Commerce for obligation and expenditure (1) \$15,000,000 for programs pursuant to title IX of Public Law 91-304, as amended, of which six percent may be available for administrative costs; (2) \$5,000,000 for the Trade Adjustment Assistance program as provided by the Trade Act of 1974, as amended; and (3) \$7,000,000 for disaster research and prevention pursuant to section 402(d) of Public Law 94-265; and

(c) transfer to the Administrator of the Small Business Administration for obligation and expenditure, \$5,000,000 for the cost of direct loans authorized by section 7(b) of the Small Business Act, as amended, for eligible small businesses.

SEC. 1125. FOOD FOR PROGRESS.

[Omitted-Consisted of amendments to the Food for Progress Act of 1985 (7 U.S.C. 1736o)]

SEC. 1126. TEMPORARY EXPANSION OF RECOURSE LOAN AUTHORITY.

[Omitted-Consisted of amendments to section 137 of the Agricultural Market Transition Act (7 U.S.C. 7237)]

SEC. 1127. [7 U.S.C. 1421 note] PILOT PROGRAMS.

(a) DOMESTIC MARKET REPORTING PILOT PROGRAM.—[Omitted-Added section 416 to the Packers and Stockyards Act, 1921]

(b) EXPORT MARKET REPORTING.—The Secretary shall—

(1) implement a streamlined electronic system for collecting export sales and shipments data, in the least intrusive manner possible, for fresh or frozen muscle cuts of meat food products; and

(2) develop a data-reporting program to disseminate summary information in a timely manner (in the case of beef, consistent with the reporting under section 602(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5712(a))).

(c) FUNDING.—An amount of \$250,000 is hereby appropriated to carry out subsection (b).

Subtitle D—Administration

SEC. 1131. [7 U.S.C. 1421 note] COMMODITY CREDIT CORPORATION.

Subject to section 1132, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out subtitles A, B, and C of this title.

SEC. 1132. [7 U.S.C. 1421 note] EMERGENCY REQUIREMENT.

Notwithstanding the last sentence of section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, amounts made available by subtitles A, B, and C of this title are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided*, That such amounts shall be available only to the extent that an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress.

SEC. 1133. [7 U.S.C. 1421 note] REGULATIONS.

(a) ISSUANCE OF REGULATIONS.—As soon as practicable after the date of enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement subtitles A, B, and C of this title. The issuance of the regulations shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

14. APPROPRIATION FOR CROP LOSS ASSISTANCE FOR 1994 CROPS

[This provision was enacted as part of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995. See Pub. L. 103-330; 108 Stat. 2448]

TITLE I—AGRICULTURAL PROGRAMS

* * * * *

COMMODITY CREDIT CORPORATION

DISASTER ASSISTANCE

Such sums as may be necessary from the Commodity Credit Corporation shall be available, through July 15, 1995, to producers under the same terms and conditions authorized in chapter 3, subtitle B, title XXII of Public Law 101-624¹ for 1994 crops, including aquaculture and excluding ornamental fish, affected by natural disasters: *Provided*, That these funds shall be made available upon enactment of this Act: *Provided further*, That such funds shall also be available for payments to producers for 1995 through 1996 orchard crop losses, if the losses are due to freezing conditions incurred between January 1, 1994 and March 31, 1994, and Federal crop insurance is not available for affected orchard crop producers: *Provided further*, That such funds shall also be available to fund the costs of replanting, reseeding, or repairing damage to commercial trees, including orchard and nursery inventory, as a result of 1994 weather-related damages: *Provided further*, That the terms and conditions of section 521, paragraphs (a) (3) and (4), paragraph (b)(3), subparagraph (c)(2)(C), and subsections (d) and (e), as amended in section 201 of S. 2095 (as reported by the Committee on Agriculture, Nutrition, and Forestry on June 22, 1994) shall apply to all claims for assistance made under this paragraph: *Provided further*, That such amounts and uses of funds made available under this paragraph are designated by Congress as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, and that such funds and uses shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

¹ Chapter 3 of subtitle B of title XXII of Public Law 101-624 (7 U.S.C. 1421 note), which authorized emergency crop loss assistance for 1990 crops, was repealed by section 119(c) of Public Law 103-354 (108 Stat. 3208).

15. EMERGENCY CROP LOSS ASSISTANCE PROGRAM FOR 1990 CROPS

[Chapter 3 of subtitle B of title XXII of the Food, Agriculture, Conservation, and Trade Act of 1990; Pub. L. 101-624, Nov. 28, 1990, 104 Stat. 3962 (7 U.S.C. 1421 note) was repealed by section 119(c) of the Federal Crop Insurance Reform Act of 1994, approved October 13, 1994 (title I of Public Law 103-354; 108 Stat. 3208). The chapter as it appeared immediately before its repeal is reprinted here.]

* * * * *

CHAPTER 3—EMERGENCY CROP LOSS ASSISTANCE

Subchapter A—Annual Crops

SEC. 2241. PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as otherwise provided in this subsection, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 60 percent (or, in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to 65 percent of the established price for the crop for any deficiency in production greater than 40 percent (or, in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act, 35 percent) for the crop.

(2) LIMITATIONS.—

(A) ACREAGE IN EXCESS OF PERMITTED ACREAGE.—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm with respect to any acreage in excess of the permitted acreage for the farm for the commodity.

(B) CROP INSURANCE.—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

(3) REDUCTION IN DEFICIENCY PAYMENTS.—The total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm under the Agricultural Act of 1949 shall be reduced by the quantity on which a payment is made to the producers for the crop under paragraph (1).

(4) ELECTION OF PAYMENTS.—

(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply, effective only for the 1990 crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice, to producers on a farm who—

(i) had failed wheat, feed grain, upland cotton, extra long staple cotton, or rice acreage; or

(ii) were prevented from planting acreage to such commodity because of damaging weather or related condition in 1989 or 1990.

(B) ELECTION.—The Secretary of Agriculture shall (within 30 days after the date of enactment of this Act) permit producers referred to in subparagraph (A) to elect whether to receive disaster payments in accordance with this section in lieu of payments received under the Agricultural Act of 1949.

(b) ADVANCE DEFICIENCY PAYMENTS.—

(1) APPLICATION OF SUBSECTION.—This subsection shall apply only to producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice.

(2) FORGIVENESS OF REFUND REQUIREMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), if because of damaging weather or related condition in 1989 or 1990 the total quantity of the 1990 crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for such crop (hereinafter in this section referred to as the “qualifying amount”), the producers shall not be required to refund any advance deficiency payment made to the producers for such crop under section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2) with respect to that portion of the deficiency in production that does not exceed—

(i) in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act, 35 percent of the qualifying amount; and

(ii) in the case of other producers, 40 percent of the qualifying amount.

(B) CROP INSURANCE.—Producers on a farm shall not be eligible for the forgiveness provided for under subparagraph (A), unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

(3) ELECTION FOR NONRECIPIENTS.—The Secretary shall allow producers on a farm who elected, prior to the date of enactment of this Act, not to receive advance deficiency payments made available for the 1990 crop under section 107C of the Agricultural Act of 1949, to elect (within 30 days after the date of the enactment of this Act) whether to receive such advance deficiency payments.

(4) DATE OF REFUND FOR PAYMENTS.—Effective only for the 1990 crops of wheat, feed grains, upland cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for the crop under section 107C of the Agricultural Act of 1949 must be refunded, such refund shall not be required prior to July 31, 1991, for that portion of the crop for which a disaster payment is made under subsection (a).

SEC. 2242. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for producers on a farm who elected not to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, if the Secretary of Agriculture determines that because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 40 percent (or in the case of producers who obtained crop insurance, 35 percent) of the county average yield established by the Secretary for such crop by the sum of acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 40 percent for the crop (or in the case of producers who obtained crop insurance, 35 percent).

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1990 crop of the commodity for harvest because of damaging

weather or related condition in 1989 or 1990, as determined by the Secretary.

(2) MAXIMUM ACREAGE.—The acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1989 minus acreage actually planted for harvest in 1990; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987, 1988, and 1989 minus acreage actually planted to the commodity for harvest in 1990.

(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

(c) LIMITATIONS.—

(1) ACREAGE LIMITATION PROGRAM.—The amount of payments made available to producers on a farm for a crop of a commodity under subsection (a) shall be reduced by a factor equivalent to the acreage limitation program percentage established for such crop under the Agricultural Act of 1949.

(2) CROP INSURANCE.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiple peril crop insurance, to the extent required under section 2247.

SEC. 2243. PEANUTS, SUGAR, AND TOBACCO.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for the 1990 crops of peanuts, sugar beets, sugarcane, and tobacco, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 60 percent (or, in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the county average yield (or program yield, in the case of peanuts) established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the applicable payment level under paragraph (3), as determined by the Secretary, for any deficiency in production greater than—

- (A) in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act—
- (i) 35 percent for the crop; or
 - (ii) with respect to a crop of burley tobacco or flue-cured tobacco, 35 percent of the farm's effective marketing quota for 1990; and
- (B) in the case of producers who did not obtain crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act—
- (i) 40 percent for the crop; or
 - (ii) with respect to a crop of burley tobacco or flue-cured tobacco, 40 percent of the farm's effective marketing quota for 1990.
- (3) PAYMENT LEVEL.—For purposes of paragraph (1), the payment level for a commodity shall be equal to—
- (A) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as applicable;
 - (B) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 2244(a)(2); and
 - (C) for sugar beets and sugarcane, a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for the 1990 crops of sugar beets and sugarcane, and that, insofar as is practicable, shall reflect no less return to the producer than under the 1990 price support levels.
- (b) PREVENTED PLANTING CREDIT.—
- (1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1990 crop of the commodity for harvest because of damaging weather or related condition in 1989 or 1990, as determined by the Secretary.
 - (2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—
 - (A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1989 minus acreage actually planted for harvest in 1990; or
 - (B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987, 1988, and 1989 minus acreage actually planted to the commodity for harvest in 1990.
 - (3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers and any change in quotas for the 1990 crops of tobacco.

(c) **LIMITATION.**—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

(d) **SPECIAL RULES FOR PEANUTS.**—Notwithstanding any other provision of law—

(1) a deficiency in production of quota peanuts from a farm, as otherwise determined under this section, shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

(2) payments made under this section shall be made taking into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

(3) the quantity of undermarketings of quota peanuts from a farm for the 1990 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

(e) **SPECIAL RULES FOR TOBACCO.**—Notwithstanding any other provision of law—

(1) the quantity of undermarketings of quota tobacco from a farm for the 1990 crop that may otherwise be claimed under section 317 or 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c or 1314e) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such tobacco for which payment has been received under this section; and

(2) disaster payments made to producers under this section may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under section 106A(d) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)).

(f) **SPECIAL RULE FOR SUGARCANE.**—For purposes of determining the total quantity of the 1990 crop of sugarcane that the producers on a farm are able to harvest, the Secretary shall make the determination based on the quantity of recoverable sugar.

SEC. 2244. SOYBEANS AND NONPROGRAM CROPS.

(a) **DISASTER PAYMENTS.**—

(1) **IN GENERAL.**—

(A) **ELIGIBILITY.**—Effective only for the 1990 crops of soybeans and nonprogram crops, to the extent that assistance was not made available under the Disaster Assistance Act of 1989 for a producer's losses, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that the producers on a farm are able to harvest is less than—

(i) with respect to soybeans and sunflowers, the result of multiplying 60 percent (or in the case of producers who obtained crop insurance, if available, for the 1990 crop year of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the State, area, or county yield, adjusted for adverse weather conditions during the 1987, 1988, and 1989 crop years, as determined by the Secretary, for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b);

(ii) with respect to nonprogram crops (other than as provided in clauses (i) and (iii)), the result of multiplying 60 percent (or in the case of producers who obtained crop insurance, if available, for the 1990 crop year of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the yield established by the Commodity Credit Corporation under subsection (d)(2) for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b); and

(iii) with respect to crops covered in section 201(b) of the Agricultural Act of 1949 (7 U.S.C. 1446(b)), 60 percent (or in the case of producers who obtained crop insurance, if available, for the 1990 crop year of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the historical annual yield of the producers for such crops, as determined by the Secretary,

the Secretary shall make a disaster payment available to such producers.

(B) PAYMENT RATE.—The payment shall be made to such producers at a rate equal to 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 40 percent for soybeans, sunflowers and for other nonprogram crops for the crop, except that in the case of producers who obtained crop insurance, if available, for the 1990 crop under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 35.

(2) PAYMENT LEVEL.—For purposes of paragraph (1), the payment level for a commodity shall equal the simple average price received by producers of the commodity, as determined by the Secretary subject to paragraph (3), during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

(3) CALCULATION OF PAYMENTS FOR DIFFERENT VARIETIES.—

(A) CROP-BY-CROP BASIS.—The Secretary shall make disaster payments under this subsection on a crop-by-crop

basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary.

(B) DIFFERENT VARIETIES.—For purposes of determining the payment levels on a crop-by-crop basis, the Secretary shall consider as separate crops, and develop separate payment levels insofar as is practicable for, different varieties of the same commodity, and commodities for which there is a significant difference in the economic value in the market.

(C) DOUBLE CROPPING.—

(i) TREATED SEPARATELY.—In the case of a crop that is historically double cropped (including two crops of the same commodity) by the producers on a farm, the Secretary shall treat each cropping separately for purposes of determining whether the crop was affected by damaging weather or related conditions and the total quantity of the crop that the producers are able to harvest.

(ii) APPLICATION OF PARAGRAPH.—This paragraph shall not apply in the case of a replacement crop.

(4) EXCLUSIONS FROM HARVESTED QUANTITIES.—For purposes of determining the total quantity of the 1990 nonprogram crop of the commodity that the producers on a farm are able to harvest under paragraph (1), the Secretary shall exclude—

(A) commodities that cannot be sold in normal commercial channels of trade; and

(B) dockage, including husks and shells, if such dockage is excluded in determining yields under subsection (d)(2).

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1990 crop of the commodity for harvest because of damaging weather or related condition in 1989 or 1990, as determined by the Secretary.

(2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1989 minus acreage actually planted for harvest in 1990; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987, 1988, and 1989 minus acreage actually planted to the commodity for harvest in 1990.

(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

(c) **LIMITATION.**—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

(d) **SPECIAL RULES FOR NONPROGRAM CROPS.**—

(1) **DEFINITION OF NONPROGRAM CROP.**—As used in this section, the term “nonprogram crop” means all crops for which crop insurance through the Federal Crop Insurance Corporation was available for crop year 1990, and other commercial crops (including ornamentals which shall include flowering shrubs, flowering trees, and field or container grown roses or turf and sweet potatoes for which such insurance was not available for crop year 1990), except that such term shall not include a crop covered under section 2241, 2242, or 2243, soybeans, or sunflowers.

(2) **FARM YIELDS.**—

(A) **ESTABLISHMENT.**—The Commodity Credit Corporation shall establish disaster program farm yields for nonprogram crops to carry out this section.

(B) **PROVEN YIELDS AVAILABLE.**—If the producers on a farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least 1 of the immediately preceding 3 crop years, the yield for the farm shall be based on such proven yield.

(C) **PROVEN YIELDS NOT AVAILABLE.**—If such data do not exist for any of the 3 preceding crop years, the Commodity Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity, or by using other data available to it.

(D) **COUNTY AVERAGE YIELDS.**—In establishing county average yields for nonprogram crops, the Commodity Credit Corporation shall use the best available information concerning yields. Such information may include extension service records, credible nongovernmental studies, and yields in similar counties.

(3) **RESPONSIBILITY OF PRODUCERS.**—It shall be the responsibility of the producers of nonprogram crops to provide satisfactory evidence of 1990 crop losses resulting from damaging weather or related condition in 1989 or 1990 in order for such producers to obtain disaster payments under this section.

SEC. 2245. CROP QUALITY REDUCTION DISASTER PAYMENTS.

(a) **IN GENERAL.**—To ensure that all producers of 1990 crops covered under sections 2241 through 2244 are treated equitably, the Secretary of Agriculture may make additional disaster payments to producers of such crops who suffer losses resulting from the reduced quality of such crops caused by damaging weather or related condition in 1989 or 1990, as determined by the Secretary.

(b) **ELIGIBLE PRODUCERS.**—If the Secretary determines to make crop quality disaster payments available to producers under subsection (a), producers on a farm of a crop described in subsection (a) shall be eligible to receive reduced quality disaster payments only if such producers incur a deficiency in production of not less

than 35 percent and not more than 75 percent for such crop (as determined under section 2241, 2242, 2243, or 2244, as appropriate).

(c) **MAXIMUM PAYMENT RATE.**—The Secretary shall establish the reduced quality disaster payment rate, except that such rate shall not exceed 10 percent, as determined by the Secretary, of—

(1) the established price for the crop, for commodities covered under section 2241;

(2) the basic county loan rate for the crop (or a comparable price if there is no current basic county loan rate), for commodities covered under section 2242;

(3) the payment level under section 2243(a)(3), for commodities covered by section 2243; and

(4) the payment level under section 2244(a)(2), for commodities covered under section 2244.

(d) **DETERMINATION OF PAYMENT.**—The amount of payment to a producer under this section shall be determined by multiplying the payment rate established under subsection (c) by the portion of the actual harvested crop on the producer's farm that is reduced in quality by such natural disaster in 1989 or 1990, as determined by the Secretary.

SEC. 2246. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS.

In the case of producers on a farm who obtained crop insurance for the 1990 crop of a commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Secretary of Agriculture shall reduce the amount of payments made available under this chapter for such crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by such producers for the deficiency in the production of the crop and the disaster payment determined in accordance with this chapter for such crop exceeds the amount determined by multiplying—

(1) 100 percent of the yield used for the calculation of disaster payments made under this chapter for such crop; by

(2) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary (or, in the case of disaster payments under section 2241, the eligible acreage established under sections 2241(a)(1) and 2241(a)(2)(A)); by

(3)(A) in the case of producers who participated in a production adjustment program for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the established price for the 1990 crop of the commodity;

(B) in the case of producers who did not participate in a production adjustment program for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the basic county loan rate (or a comparable price, as determined by the Secretary, if there is no current basic county loan rate) for the 1990 crop of the commodity;

(C) in the case of producers of sugar beets, sugarcane, peanuts, or tobacco, the payment level for the commodity established under section 2243(a)(3); and

(D) in the case of producers of soybeans or a nonprogram crop (as defined in section 2244(d)(1)), the simple average price

received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

SEC. 2247. CROP INSURANCE COVERAGE FOR THE 1991 CROPS.

(a) **REQUIREMENT.**—Subject to the limitations under subsection (b), producers on a farm, to be eligible to receive a disaster payment under this chapter, an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) for crop losses due to damaging weather or related condition in 1989 or 1990, or forgiveness of the repayment of advance deficiency payments under section 2241(b), must agree to obtain multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the 1991 crop of the commodity for which such payments, loans, or forgiveness are sought.

(b) **LIMITATIONS.**—Producers on a farm shall not be required to agree to obtain crop insurance under subsection (a) for a commodity—

(1) unless such producers' deficiency in production, with respect to the crop for which a disaster payment under this chapter otherwise may be made, exceeds 65 percent;

(2) where, or if, crop insurance coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought;

(3) if the producers' annual premium rate for such crop insurance is an amount greater than 125 percent of the average premium rate for insurance on that commodity for the 1990 crop in the county in which the producers are located;

(4) in any case in which the producers' annual premium for such crop insurance is an amount greater than 25 percent of the amount of the payment, loan, or forgiveness sought; or

(5) if the producers can establish by appeal to the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), or to the county committee established under section 332 of the Consolidated Farm and Rural Development Act (17 U.S.C. 1982), as appropriate, that the purchase of crop insurance would impose an undue financial hardship on such producers and that a waiver of the requirement to obtain crop insurance should, in the discretion of the county committee, be granted.

(c) **IMPLEMENTATION.**—

(1) **COUNTY COMMITTEES.**—The Secretary of Agriculture shall ensure (acting through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and located in the counties in which the assistance programs provided for under sections 2241 through 2245 are implemented and through the county committees established under section 332 of the Consolidated Farm and Rural Development Act in counties in which emergency loans, as described in subsection (a), are made available) that producers who apply for assistance, as described in subsection (a), obtain multiperil crop insurance as required under this section.

(2) OTHER SOURCES.—Each producer who is subject to the requirements of this section may comply with such requirements by providing evidence of multiperil crop insurance coverage from sources other than through the county committee office, as approved by the Secretary.

(3) COMMISSIONS.—The Secretary shall provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into under this section sufficient to reflect that such insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company.

(d) REPAYMENT OF BENEFITS.—Notwithstanding any other provision of law, if (prior to the end of the 1991 crop year for the commodity involved) the crop insurance coverage required of the producer under this section is canceled by the producer, the producer—

(1) shall make immediate repayment to the Secretary of any disaster payment or forgiven advance deficiency payment that the producer otherwise is required to repay; and

(2) shall become immediately liable for full repayment of all principal and interest outstanding on any emergency loan described in subsection (a) made subject to this section.

SEC. 2248. CROPS HARVESTED FOR FORAGE USES.

Not later than 45 days after funds are appropriated to carry out this chapter, the Secretary of Agriculture shall announce the terms and conditions by which producers on a farm may establish a 1990 yield with respect to crops that will be harvested for silage and other forage uses.

SEC. 2249. PAYMENT LIMITATIONS.

(a) LIMITATION.—Subject to subsections (b) and (c), the total amount of payments that a person shall be entitled to receive under one or more of the programs established under this subchapter may not exceed \$100,000.

(b) NO DOUBLE BENEFITS.—No person may receive disaster payments under this subchapter to the extent that such person receives a livestock emergency benefit for lost feed production in 1990 under section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d).

(c) COMBINED LIMITATION.—

(1) IN GENERAL.—No person may receive any payment under this subchapter or benefit under title VI of the Agricultural Act of 1949 (7 U.S.C. 1471 et seq.) for livestock emergency losses suffered in 1990 if such payment or benefit will cause the combined total amount of such payments and benefits received by such person to exceed \$100,000.

(2) ELECTION.—If a producer is subject to paragraph (1), the person may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g)) whether to receive the \$100,000 in such payments, or such livestock emergency benefits (not to exceed \$50,000), or a combination of payments and benefits specified by the person.

(d) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

(1) defining the term “person” for the purposes of this section and section 2266, which shall conform, to the extent practicable, to the regulations defining the term “person” issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this section.

SEC. 2250. SUBSTITUTION OF CROP INSURANCE PROGRAM YIELDS.

(a) **IN GENERAL.**—Notwithstanding any other provision of this chapter, the Secretary of Agriculture may permit each eligible producer (as defined in subsection (d)) of a 1990 crop of a commodity who has obtained multiperil crop insurance for such crop (or, as provided in subsection (c), who obtained multiperil crop insurance for the producer’s 1989 crop of such commodity) under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to substitute, at the discretion of the producer, the crop insurance yield for such crop, as established under such Act, for the farm yield otherwise assigned to the producer under this chapter, for the purposes of determining such producer’s eligibility for a disaster payment on the 1990 crop under this chapter and the amount of such payment.

(b) **ADJUSTMENT OF ADVANCED DEFICIENCY PAYMENTS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of this chapter, if an eligible producer of wheat, feed grains, upland cotton, extra long staple cotton, or rice elects to substitute yields for such producer’s 1990 crop under subsection (a), the producer’s eligibility for a waiver or repayment of an advance deficiency payment on such crop under this chapter shall be adjusted as provided in paragraph (2).

(2) **AMOUNT.**—The amount of production of such crop on which the producer otherwise would be eligible for waiver of repayment of advance deficiency payments under this chapter shall be reduced by an amount of production equal to the difference between—

(A) the amount of production eligible for disaster payments under this chapter using a substituted yield under this section; and

(B) the amount of production that would have been eligible for disaster payments using the farm program payment yield otherwise assigned to the producer under this chapter.

(c) **MULTIPERIL CROP INSURANCE NOT AVAILABLE.**—A producer may use the crop insurance yield for the producer’s 1989 crop of a commodity for purposes of substituting yields under subsection (a) if the producer demonstrates to the Secretary that, through no fault of the producer, multiperil crop insurance under the Federal Crop Insurance Act was not made available to the producer for the producer’s 1990 crop of the commodity.

(d) **DEFINITION OF ELIGIBLE PRODUCER.**—For purposes of this section, the term “eligible producer” means a producer of the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.

SEC. 2251. DEFINITIONS.

As used in this chapter:

(1) **DAMAGING WEATHER.**—The term “damaging weather” includes but is not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, earthquake, or excessive wind, or any combination thereof.

(2) **RELATED CONDITION.**—The term “related condition” includes but is not limited to insect infestations, plant diseases, or other deterioration of a crop of a commodity, including aflatoxin, that is accelerated or exacerbated naturally as a result of damaging weather occurring prior to or during harvest.

Subchapter B—Orchards

SEC. 2255. ELIGIBILITY.

(a) **LOSS.**—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 2256, to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of freeze, earthquake, or related condition in 1990, as determined by the Secretary.

(b) **LIMITATION.**—An eligible orchardist shall qualify for assistance under subsection (a) only if such orchardist’s tree mortality, as a result of the natural disaster, exceeds 35 percent (adjusted for normal mortality).

SEC. 2256. ASSISTANCE.

The assistance provided by the Secretary of Agriculture to eligible orchardists for losses described in section 2255 shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting trees lost due to freeze, earthquake, or related condition in 1990 in excess of 35 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient seedlings to reestablish the stand.

SEC. 2257. LIMITATION ON ASSISTANCE.

(a) **LIMITATION.**—The total amount of payments that a person shall be entitled to receive under this subchapter may not exceed \$25,000, or an equivalent value in tree seedlings.

(b) **REGULATIONS.**—The Secretary of Agriculture shall issue regulations—

(1) defining the term “person” for the purposes of this subchapter, which shall conform, to the extent practicable, to the regulations defining the term “person” issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) and the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 2258. DEFINITION.

As used in this subchapter, the term “eligible orchardist” means a person who produces annual crops from trees for commercial purposes and owns 500 acres or less of such trees.

SEC. 2259. DUPLICATIVE PAYMENTS.

The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this subchapter and the forestry incentives program, agricultural conservation program, or other Federal program.

Subchapter C—Forest Crops**SEC. 2261. ELIGIBILITY.**

(a) **LOSS.**—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 2262, to eligible tree farmers that planted tree seedlings in 1989 or 1990 for commercial purposes but lost such seedlings as a result of drought, earthquake, or related condition in 1990, as determined by the Secretary.

(b) **LIMITATION.**—An eligible tree farmer shall qualify for assistance under subsection (a) only if such tree farmer's tree seedling mortality, as a result of the natural disaster, exceeds 35 percent (adjusted for normal mortality).

SEC. 2262. ASSISTANCE.

The assistance provided by the Secretary of Agriculture to eligible tree farmers for losses described in section 2261 shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting seedlings lost due to drought, earthquake, or related conditions in 1990 in excess of 35 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient tree seedlings to reestablish the stand.

SEC. 2263. LIMITATION ON ASSISTANCE.

(a) **LIMITATION.**—The total amount of payments that a person shall be entitled to receive under this subchapter may not exceed \$25,000, or an equivalent value in tree seedlings.

(b) **REGULATIONS.**—The Secretary of Agriculture shall issue regulations—

(1) defining the term “person” for the purposes of this subchapter, which shall conform, to the extent practicable, to the regulations defining the term “person” issued under section 1001 of the Food Security Act of 1985 and the Disaster Assistance Act of 1988; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 2264. DEFINITION.

As used in this chapter,¹ the term “eligible tree farmer” means a person who grows trees for harvest for commercial purposes and owns 1,000 acres or less of such trees.

SEC. 2265. DUPLICATIVE PAYMENTS.

The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this sub-

¹ So in original. Probably should refer to this subchapter.

chapter and the forestry incentives program, agricultural conservation program, or other Federal program.

Subchapter D—Administrative Provisions

SEC. 2266. INELIGIBILITY.

(a) **GENERAL RULE.**—A person who has qualifying gross revenues in excess of \$2,000,000 annually, as determined by the Secretary of Agriculture, shall not be eligible to receive any disaster payment or other benefits under this chapter.

(b) **QUALIFYING GROSS REVENUES.**—For purposes of this section, the term “qualifying gross revenues” means—

(1) if a majority of the person’s annual income is received from farming, ranching, and forestry operations, the gross revenue from the person’s farming, ranching, and forestry operations; and

(2) if less than a majority of the person’s annual income is received from farming, ranching, and forestry operations, the person’s gross revenue from all sources.

SEC. 2267. TIMING AND MANNER OF ASSISTANCE.

(a) **TIMING OF ASSISTANCE.**—

(1) **ASSISTANCE MADE AVAILABLE AS SOON AS PRACTICABLE.**—Subject to paragraph (2), the Secretary of Agriculture shall make disaster assistance available under this chapter as soon as practicable after the date on which appropriations are made available to carry out this chapter.

(2) **COMPLETED APPLICATION.**—No payment or benefit provided under this chapter shall be payable or due until such time as a completed application for a crop of a commodity therefor has been approved.

(b) **MANNER.**—The Secretary may make payments available under this chapter in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

SEC. 2268. COMMODITY CREDIT CORPORATION.

(a) **USE.**—The Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this chapter.

(b) **EXISTING AUTHORITY.**—The authority provided by this chapter shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

SEC. 2269. EMERGENCY LOANS.

Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) shall not apply to persons who otherwise would be eligible for an emergency loan under subtitle C of such Act, if such eligibility is the result of damage to an annual crop planted for harvest in 1990.

SEC. 2270. REGULATIONS.

The Secretary of Agriculture or the Commodity Credit Corporation, as appropriate, shall issue regulations to implement this chapter as soon as practicable after the date on which appropriations are made available to carry out this chapter, without regard to the requirement for notice and public participation in rule mak-

ing prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

Subchapter E—Appropriations

SEC. 2271. AUTHORIZATION OF APPROPRIATIONS.

Any benefits or assistance (including the forgiveness of unearned advanced deficiency payments of² any emergency loans) made available under this chapter shall be provided only to the extent provided for in advance in appropriations Acts. To carry out this chapter there are authorized to be appropriated such sums as may be necessary in each of the fiscal years 1991 and 1992.

SEC. 2272. PRORATION OF BENEFITS.

Any funds made available for carrying out this chapter in appropriations Acts shall be prorated to all producers eligible for assistance under this chapter.

* * * * *

²So in original. Section 114(a)(16) of Public Law 102-237 (105 Stat. 1839) attempted to change "payments of" to "payments or", but the amendment could not be executed.

16. HURRICANE HUGO FORESTRY ASSISTANCE ACT

[Subsections (b) and (c) of section 2235 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101-624; 104 Stat. 3960; 7 U.S.C. 1421 note)]

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SEC. 2235. AMENDMENTS TO THE DISASTER ASSISTANCE ACT OF 1989.

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(b) HURRICANE HUGO FORESTRY ASSISTANCE ACT; COST-SHARE ASSISTANCE.—

(1) ESTABLISHMENT.—For the purposes of encouraging tree owners to reestablish stands of trees damaged by Hurricane Hugo, the Secretary of Agriculture (hereafter in this subsection referred to as the “Secretary”) shall develop and implement a cost-share program to provide financial assistance to owners of private timber stands that were damaged, as determined by the Secretary, in 1989 by Hurricane Hugo. This assistance shall only be made available in those counties in South Carolina, North Carolina, Virginia, Puerto Rico, and the United States Virgin Islands declared by the President to be disaster areas as a result of Hurricane Hugo and any county contiguous to those counties.

(2) ELIGIBLE PRACTICES.—Practices eligible for cost-share assistance under this subsection are—

(A) reforestation;

(B) site preparation; and

(C) such other timber stand reestablishment practices as may be prescribed by the Secretary.

(3) PRIVATE TIMBER STANDS.—

(A) DEFINITION.—For the purpose of this subsection, the term “private timber stand” means a stand of trees damaged by Hurricane Hugo held continuously during the period described in paragraph (1) for commercial purposes by a private individual, group, association, corporation, Indian tribe or other native Indian group, or other legal entity, owning 1,000 acres or less of land planted to trees, except agencies of Federal, State, or local governments. Such term does not include a stand of trees transferred after the date on which such stand was damaged by Hurricane Hugo except for a stand of trees transferred by bequest, devise or inheritance, or acquired from a decedent by reason of death because of the form of ownership or other condition (including trees acquired through the exercise or nonexercise of a power of appointment).

(B) PERIOD FOR PURPOSES OF SUBPARAGRAPH (A).—The period referred to in subparagraph (A) is the period beginning on the date on which such trees were damaged by Hurricane Hugo and ending at the time the request is made for assistance under this subsection.

(4) INDIVIDUAL FOREST MANAGEMENT PLANS.—The Secretary may provide assistance under this subsection only after a management plan for the private timber stand has been developed by the holder of the stand in cooperation with, and approved by, the State forester or equivalent State official. Such management plan shall—

(A) include provision for the replacement of the timber stand through reforestation by tree plantings or other means; and

(B) be the basis for an agreement between the holder and the Secretary under paragraph (5).

(5) COST SHARE.—The Secretary shall enter into agreements to share the cost of implementing eligible practices set forth in the agreement with holders who agree to implement those eligible practices. The amount of the Federal cost-share (including labor) for an eligible practice shall be 75 percent of the total cost of implementing eligible practices. The Secretary may consider, in determining the total cost of implementing eligible practices, any revenues from the sale of timber from private timber stands.

(6) DEADLINE.—Requests for assistance under this subsection must be filed with the Secretary not later than December 31, 1993.

(7) PAYMENT LIMITATION.—The total amount of payments that a person shall be entitled to receive under this subsection may not exceed \$50,000. The Secretary shall issue regulations defining the term “person” which shall conform, to the extent practicable, to the regulations defining the term “person” issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308).

(8) REGULATIONS.—The Secretary shall issue regulations to implement the provisions of this subsection as soon as practicable after the date on which appropriations are made available to carry out this subsection, without regard to the requirement for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code.

(c) AUTHORIZATION OF APPROPRIATIONS.—Any benefits or assistance provided under this section, or under the amendments made by this section to the Disaster Assistance Act of 1989, shall be provided only to the extent provided for in advance by appropriation acts. To carry out this section, and the amendments made by this section to the Disaster Assistance Act of 1989, there are hereby authorized to be appropriated for fiscal years 1991 through 1995 such sums as are necessary.

17. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS

[Section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101-624; 104 Stat. 3978; 42 U.S.C. 5177a)]

SEC. 2281. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.

(a) **IN GENERAL.**—The Secretary of Agriculture may make grants, not to exceed \$20,000,000 annually, to public agencies or private organizations with tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1986, that have experience in providing emergency services to low-income migrant and seasonal farmworkers where the Secretary determines that a local, State or national emergency or disaster has caused low-income migrant or seasonal farmworkers to lose income, to be unable to work, or to stay home or return home in anticipation of work shortages. Emergency services to be provided with assistance received under this section may include such types of assistance as the Secretary of Agriculture determines to be necessary and appropriate.

(b) **DEFINITION.**—For The purposes of this section, the term “low-income migrant or seasonal farmworker” means an individual—

(1) who has, during any consecutive 12 month period within the preceding 24 month period, performed farm work for wages;

(2) who has received not less than one-half of such individual’s total income, or been employed at least one-half of total work time in farm work; and

(3) whose annual family income within the 12 month period referred to in paragraph (1) does not exceed the higher of the poverty level or 70 percent of the lower living standard income level.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.